

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**JEREMY LYNN WILLIS,** )  
                                )  
                                )  
**Plaintiff,**                 )  
v.                              )  
                                )  
**BRAD HAMILTON, et al.,** )  
                                )  
                                )  
**Defendants.**                 )

**Case No. CIV-13-489-HE**

**REPORT AND RECOMMENDATION**

Plaintiff, a prisoner appearing *pro se*, has filed this action under 42 U.S.C. § 1983 alleging various violations of his constitutional rights. United States District Judge Joe Heaton has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). By an order dated May 24, 2013, the undersigned found that two of Plaintiff's filings were deficient: (1) the Complaint was not signed by the Plaintiff; and (2) Plaintiff's Motion to Proceed *In Forma Pauperis* was missing the signature of an authorized officer of the penal institution and a certified copy of Plaintiff's institutional account statement for the six-month period immediately preceding this filing. **ECF Nos. 1, 2.** The Order directed Plaintiff to cure these deficiencies on or before June 14, 2013. Plaintiff was further advised that failure to comply with the Order could result in dismissal of his action. ECF No. 5.

A review of the court file reveals that more than two months have passed without Plaintiff curing the deficiencies, showing good cause for his failure to do so, or requesting an extension of time to comply with the Court's order. In fact, Plaintiff has not responded to the Court's order in any way. The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to

manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10<sup>th</sup> Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

## RECOMMENDATION

It is therefore recommended that Plaintiff's Motion to Appear *In Forma Pauperis*, **ECF No. 2**, be **DENIED**. It is further recommended that this action be **DISMISSED WITHOUT PREJUDICE** to refilling. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **September 23, 2013**, in accordance with 28 U.S.C. § 636 and Fed.R.Civ.P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulloa*, 595 F.3d 1120, 1123 (10<sup>th</sup> Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

**ENTERED** on September 6, 2013.



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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE